



STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	04/16/01	Bill No:	AB 345
Tax:	Diesel Fuel	Author:	Matthews, et al.
Board Position:	Support	Related Bills:	

BILL SUMMARY

This bill would exempt from the excise tax diesel fuel sold by a supplier to a public safety department, as defined, for use in an authorized emergency vehicle.

ANALYSIS

Current Law

Under existing law, an excise tax of \$0.18 per gallon is imposed on each gallon of diesel fuel, unless specifically exempted.

Generally, a government entity is required to pay the diesel fuel tax to the same extent as any other person in this state. A government entity is defined to mean this state and its political subdivisions except for a political subdivision that is only an exempt bus operator.

The diesel fuel tax is paid to the State Board of Equalization (Board) and deposited into the Transportation Tax Fund.

Proposed Law

Among other things, this bill would exempt from the diesel fuel tax diesel fuel sold by a supplier to a public safety department for use in an authorized emergency vehicle, as defined in Section 165 of the Vehicle Code. This bill would define “public safety department” to mean either of the following:

- A fire department maintained by a city or town, a fire company in an unincorporated town organized pursuant to Section 14825 of the Health and Safety Code, or a fire protection district formed pursuant to the Fire Protection District Law of 1987.
- A police department or a sheriff department maintained by a city, county, or city and county.

This bill would allow a public safety department to operate a motor vehicle on any public highway in this state and not be subject to the diesel fuel tax.

In addition, this bill would allow a person to be reimbursed and repaid the amount of tax if the diesel fuel was sold by a person to a public safety department under circumstances that would have entitled that person to an exemption from the payment of diesel fuel tax under Section 60100 if that person had been the supplier of the diesel fuel. This change would allow a wholesaler to file a claim for refund directly with the state, and thereby allow a public safety department to purchase ex-tax diesel fuel from someone other than the limited number of suppliers.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board’s formal position.

Background

In 1994, Senate Bill 840 (Chapter 912, Presley) enacted the Diesel Fuel Tax Law and moved the collection point of the excise tax on diesel fuel from the wholesaler level to the terminal rack level for purposes of conforming the state imposition of the tax to federal law.

During the 1995 Legislative Session, Senate Bill 1131 (Chapter 34, Costa) made a number of changes to the Diesel Fuel Tax Law. Among other things, SB 1131 defined state and local governments, required those agencies to self-report their state excise tax liability, and allowed those agencies to use dyed diesel fuel on the highway.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the California State Firefighters' Association and is intended to reduce the operating costs of public safety vehicles.
2. **The April 16, 2001 amendment adds a Principal coauthor and makes a nonsubstantive change.** Senator Ortiz has been added as a Principal coauthor. The bill additionally makes a nonsubstantive change.
3. **Precedent for exemptions for other public services.** It could be argued that this exemption, which is narrowly targeted to purchases of diesel fuel by public safety departments, is warranted because of the high priority of those services. However, there may be many other worthy services provided at the state level or by private companies that may have equally persuasive arguments, such as ambulance companies, the California Highway Patrol, or the State Department of Forestry. In addition, every new exemption encourages the addition of further exemptions.
4. **Board staff does not foresee any administrative problems with this measure.** Board staff provided the current bill language to make it possible for the Board to properly administer the tax law changes in the event this bill becomes law.
5. **Suggested Technical Amendments.** This measure would allow a public safety department to purchase diesel fuel without the payment of the excise tax from a supplier or wholesaler. However, subsequent to providing the language contained in this version of the bill, Board staff learned that public safety departments may obtain fuel from a person other than a supplier or wholesaler, such as from a city or county. Accordingly, technical amendments may be necessary.

Board staff is willing to work with the author's office in drafting amendments to the bill that would address this issue.

6. **Double joining language may be necessary.** AB 1126 (Committee on Revenue and Taxation) would also amend Section 60205.5 of the Revenue and Taxation Code. AB 1126 would, in part, authorize the Board to accept Special Taxes Program returns by electronic media and to prescribe the method of authenticating a return.

As this bill progresses, the author may wish to consider adding double joining language to this measure.

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COST ESTIMATE

The administrative workload associated with this bill would include advising and answering inquiries from the public, informing Board staff, reprogramming, and revising returns. However, a cost estimate of this workload is pending.

REVENUE ESTIMATE**Background, Methodology, and Assumptions**

This bill defines “public safety department” as city fire departments, fire companies in an unincorporated area, fire protection districts, and police and sheriff departments maintained by cities, counties or a city and county. Authorized emergency vehicles would include ambulances, police vehicles and fire-fighting vehicles. Most of these vehicles do not use diesel fuel. Diesel fuel is used mainly in fire department vehicles.

Based on information from a number of fire departments and from the State Controller’s publications of fiscal data for California’s cities, counties and special districts, consumption of diesel fuel by emergency vehicles amounts to approximately 5 million gallons annually.

Revenue Summary

The revenue loss from exempting diesel fuel used by authorized emergency vehicles from the \$0.18 per gallon diesel fuel tax is estimated to be \$900,000 annually.

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